THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.1248 OF 2006

Dt.25.1.2006

Between:

M/s.Vasanti Marine Foods,

Adivi Village, Bapatla Mandal,

Guntur District, rep. by its Director

P.Satyanarayana Raju … Petitioner

And

The Southern Power Distribution Company of

A.P.Limited, rep. by its Managing Director,

Tirupati, Chittoor District and 2 others. … Respondents

ORDER:

The petitioner questions the notice issued by the third respondent in Lr.No.ADE/OSD/BPT/F.No.Doc.D.No.1325/06 dt.18.1.2006 as illegal and arbitrary and contrary to provisions of Section 126 of the Electricity Act, 2003 and consequently set aside the same.

The petitioner is involved in the business of marine foods and is having electricity service connection bearing No.HT-GNT-592 under Category HT-I. It is stated that the 3rd respondent inspected the petitioner' service connection on 17.1.2006 and issued the provisional assessment notice dated 18.1.2006 estimating the value of the energy pilfered at Rs.50,55,871/- on the ground that the petitioner indulging in theft of energy by by-passing the metering arrangement and the said service connection has been disconnected. It is stated that the petitioner is asked to pay half of the said amount in the impugned notice to have the electricity restored subject to final assessment. It is stated that the petitioner has not paid any amount and also not

filed any objections pursuant to the impugned notice.

Heard the learned counsel for the petitioner as well as the learned Standing Counsel appearing on behalf of the respondents.

I am of the opinion that basing on the provisional assessment notice the service connection of the petitioner cannot be disconnected unless an opportunity is given to the petitioner to file objections and after considering the said objections final assessment order is passed. There is no such power, while issuing provisional assessment notice, to forthwith stop or disconnect the electricity supply.

Having regard to the facts and circumstances of the case, the impugned notice is to be treated as show cause notice and petitioner is directed to file objections within one week from the date of receipt of a copy of this order and on filing such objections the respondents may consider the same and pass appropriate final order under Section 126 of the Electricity Act, 2003. Till then, the respondents are directed to restore power supply to the petitioner's service connection No.HT-GNT-592 under Category HT-1 forthwith without insisting upon the payment of the provisionally assessment pilferage charges.

The writ petition is accordingly disposed. No costs.

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(V.ESWARAIAH, J.)

25.1.2006

Note: Issue copy by 28.1.2006

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